

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DAVID VINCENT VIER, S,

Defendant.

CR 21-11-BU-DLC

ORDER

Before the Court is United States Magistrate Judge Kathleen L. DeSoto's Findings & Recommendation Concerning Plea. (Doc. 24.) Because neither party objected, they are not entitled to *de novo* review. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). Therefore, the Court reviews the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

David Vincent Viers is charged with one count of possession with intent to distribute methamphetamine, in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2 (Count I) and one count of distribution of methamphetamine, in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2 (Count II). (Doc. 2.) Judge DeSoto

recommends that this Court accept Mr. Viers' guilty plea as to Count I after he appeared before her pursuant to Federal Rule of Criminal Procedure 11. The Court finds no clear error in Judge DeSoto's Findings and Recommendation and adopts them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report. The Court will impose forfeiture upon motion of the United States.

Accordingly, IT IS ORDERED that Judge DeSoto's Findings and Recommendation (Doc. 24) is ADOPTED in full.

IT IS FURTHER ORDERED that Mr. Viers' motion to change plea (Doc. 17) is GRANTED.

IT IS FURTHER ORDERED that Mr. Viers is adjudged guilty as charged in Count I of the Indictment.

DATED this 22nd day of September, 2021.



Dana L. Christensen, District Judge
United States District Court